

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BILLY RAE SHANEE MALDONADO,

Plaintiff,

v.

STATE OF CALIFORNIA, *et al.*,

Defendants.

Case No. 2:21-cv-02172-KJM-JDP (PC)

ORDER THAT PLAINTIFF:

(1) STAND BY HIS COMPLAINT  
SUBJECT TO A  
RECOMMENDATION THAT HIS  
APPLICATION TO PROCEED *IN*  
*FORMA PAUPERIS* BE DENIED, OR

(2) FILE AN AMENDED  
COMPLAINT WHOSE  
ALLEGATIONS MAKE A SHOWING  
OF IMMINENT DANGER

ECF No. 1

THIRTY-DAY DEADLINE

Plaintiff has filed a complaint, ECF No. 1, and a request to proceed *in forma pauperis*, ECF No. 2. He is, however, a “three-striker” within the meaning of Title 28 U.S.C. § 1915(g). He has, in other words, filed three cases that have been dismissed for failure to state a claim. Plaintiff has filed at least three cases that have been dismissed for failure to state a claim:

- (1) *Maldonado v. Yates*, No. 1:11-cv-01735-LJO-GSA (E.D. Cal. Jun. 13, 2013);
- (2) *Maldonado v. Trimble*, No. 1:11-cv-02160-LJO-DLB (E.D. Cal. Apr. 19, 2013);
- (3) *Maldonado v. Yates*, No. 1:11-cv-01885-AWI-JLT (E.D. Cal. Jan. 17, 2014).

1 Plaintiff will still be allowed to proceed *in forma pauperis* if he is in imminent danger of  
2 serious physical injury. The allegations in his complaint, however, do not make that showing. I  
3 cannot make out the substance of plaintiff's allegations because his handwriting is illegibly dense.  
4 Thus, I cannot conclude that plaintiff is imminent danger. I will allow him to file an amended  
5 complaint that legibly describes his claims. I will defer ruling on plaintiff's application to  
6 proceed *in forma pauperis* until either he files an amended complaint or the deadline for doing so  
7 has passed.

8 If plaintiff decides to file an amended complaint, the amended complaint will supersede  
9 the current complaint. See *Lacey v. Maricopa County*, 693 F. 3d 896, 907 n.1 (9th Cir. 2012) (en  
10 banc). This means that the amended complaint will need to be complete on its face without  
11 reference to the prior pleading. See E.D. Cal. Local Rule 220. Once an amended complaint is  
12 filed, the current complaint no longer serves any function. Therefore, in an amended complaint,  
13 as in an original complaint, plaintiff will need to assert each claim and allege each defendant's  
14 involvement in sufficient detail. The amended complaint should be titled "First Amended  
15 Complaint" and refer to the appropriate case number.

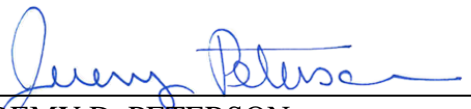
16 Accordingly, it is ORDERED that:

17 1. Within thirty days from the service of this order, plaintiff must either file an  
18 amended complaint or advise the court he wishes to stand by his current complaint. If he selects  
19 the latter option, I will recommend that his application to proceed *in forma pauperis* be denied  
20 and that he be made to pay the filing fee before this action can proceed.

21 2. The Clerk of Court is directed to send plaintiff a complaint form.

22  
23 IT IS SO ORDERED.

24 Dated: April 25, 2022

25   
26 JEREMY D. PETERSON  
27 UNITED STATES MAGISTRATE JUDGE  
28